

# EXHIBIT 33

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July 24, 2017

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE SEAGATE TECHNOLOGY LLC  
LITIGATION,

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CASE NO. 5:16-CV-00523-JCS

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CONSOLIDATED ACTION,

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VIDEOTAPED DEPOSITION OF JAMES HAGEY

San Francisco, California

Monday, July 24, 2017

Reported by: Ashley Soevyn, CSR No. 12019

Job No. 2259

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<p style="text-align: right;">Page 54</p> <p>1 drives, with consistent quality and</p> <p>2 performance-enhancing innovation and features.</p> <p>3 Q And then I think you also mentioned that</p> <p>4 you had relied on subparagraph C, "proven quality</p> <p>5 and performance"?</p> <p>6 A Yes, ma'am.</p> <p>7 Q And can you tell me why you relied on</p> <p>8 that statement?</p> <p>9 A Because they said they had built quality</p> <p>10 hard drives that had good performance.</p> <p>11 Q And, finally, with subparagraph A, you</p> <p>12 mentioned that you relied on that as well. Can you</p> <p>13 tell me why?</p> <p>14 A Just because it speaks to the reliability</p> <p>15 of any hard drive.</p> <p>16 Q Can you tell me what you mean by that?</p> <p>17 A Well, I interpret it as meaning that a</p> <p>18 hard drive that is getting lots of read and writes</p> <p>19 and being consistently used and accessed. And that,</p> <p>20 even in that environment, it would continue to</p> <p>21 operate.</p> <p>22 Q Okay. And then we're going to flip back</p> <p>23 to the section of allegations. So we're going to</p> <p>24 Paragraph 178.</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 56</p> <p>1 BY MS. SIU:</p> <p>2 Q Okay. Can you tell me if this looks like</p> <p>3 the data sheet you reviewed on Seagate's websites?</p> <p>4 A Yes, ma'am, it is.</p> <p>5 Q Okay. And you said that you reviewed</p> <p>6 that data sheet prior to purchasing your drive?</p> <p>7 A I did.</p> <p>8 Q Going back to 179 of the complaint,</p> <p>9 You'll notice in that paragraph there are examples</p> <p>10 one through five, of different representations that</p> <p>11 you relied on. We're just going to go one by one</p> <p>12 and kind of talk about them.</p> <p>13 A Okay.</p> <p>14 Q So Paragraph 179 of the operative states</p> <p>15 that you considered the AFR data to be material</p> <p>16 because it pertained to the internal Barracuda's</p> <p>17 reliability and longevity; is that correct?</p> <p>18 A Yes.</p> <p>19 Q And can you tell me a little bit about</p> <p>20 your understanding of what AFR data is?</p> <p>21 A Yes. It's the average failure rate for a</p> <p>22 hard drive, just in general.</p> <p>23 Q And can you tell me how AFR is measured?</p> <p>24 A I cannot.</p> <p>25 Q Okay. And have you seen the term "AFR"</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Actually, we've been going for about an</p> <p>2 hour. Do you want to go ahead take a break now?</p> <p>3 A That would be good.</p> <p>4 Q Okay.</p> <p>5 THE VIDEOGRAPHER: This marks the end of</p> <p>6 DVD 1 to the deposition of Mr. Hagey. The time is</p> <p>7 10:46 a.m. We're going off the record.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: Counsel, we are now</p> <p>10 going on the record. This marks the beginning of</p> <p>11 DVD 2 in the deposition of James Hagey -- Hagey.</p> <p>12 It's 10:56 a.m. We're now on the record.</p> <p>13 BY MS. SIU:</p> <p>14 Q So, at Paragraph 178 of the operative</p> <p>15 complaint, it says that you read the Barracuda data</p> <p>16 sheet, including AFR data; is that correct?</p> <p>17 A Yes.</p> <p>18 Q So if you'll bear with me and flip to</p> <p>19 Exhibit B of the operative complaint. And if you're</p> <p>20 looking at the page numbers at the top, it's going</p> <p>21 to say document 62-2.</p> <p>22 THE REPORTER: Fifty-two?</p> <p>23 MS. SIU: Sixty-two.</p> <p>24 THE WITNESS: I'm there.</p> <p>25</p>	<p style="text-align: right;">Page 57</p> <p>1 or "annualized failure rate" during your 20-year</p> <p>2 career --</p> <p>3 A Yes.</p> <p>4 Q -- in information technology services?</p> <p>5 A I have.</p> <p>6 Q And going to the first statement, it says</p> <p>7 that you relied on this data in deciding to purchase</p> <p>8 the internal Barracuda because it caused you to</p> <p>9 believe that the drive was stable, reliable, and had</p> <p>10 a long life expectancy; is that correct?</p> <p>11 A It is.</p> <p>12 Q What caused that belief? Actually, let</p> <p>13 me rephrase.</p> <p>14 So, remember, this paragraph starts</p> <p>15 talking about AFR and how you viewed that</p> <p>16 representation.</p> <p>17 A Yes.</p> <p>18 Q So what about that representation, the</p> <p>19 AFR, made you believe that the drive was stable,</p> <p>20 reliable, and had a long expected life?</p> <p>21 A Because it was such a -- because it was</p> <p>22 such a small number.</p> <p>23 Q Okay. And can you tell me, in your</p> <p>24 opinion, what constitutes a long expected life?</p> <p>25 A For a hard drive?</p>


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<p style="text-align: right;">Page 74</p> <p>1 Q Okay. And in Paragraph 184, it mentions</p> <p>2 that you haven't installed the refurbished drive</p> <p>3 because you don't want to lose your data for a third</p> <p>4 time; is that correct?</p> <p>5 A The -- I didn't get a third one.</p> <p>6 Q Oh.</p> <p>7 A I did not send back the second failed</p> <p>8 drive, because I didn't want to have to deal with</p> <p>9 another bad drive.</p> <p>10 Q Gotcha.</p> <p>11 It had mentioned that, in the sort of</p> <p>12 last line, it says that you lost some data; is that</p> <p>13 correct?</p> <p>14 A That is correct.</p> <p>15 Q Okay. So was that -- did you lose data</p> <p>16 from the original drive?</p> <p>17 A The data on the original drive, I lost</p> <p>18 data on both drives, actually.</p> <p>19 Q Okay. And can you tell me what type of</p> <p>20 data you lost?</p> <p>21 A Personal photographs, music, videos.</p> <p>22 Q Were those backed up anywhere?</p> <p>23 A No.</p> <p>24 Q And did you receive -- or, sorry, did you</p> <p>25 seek any recovery services after either of those</p>	<p style="text-align: right;">Page 76</p> <p>1 Q And did you read any of the statements</p> <p>2 made by Seagate regarding RAID capabilities, or the</p> <p>3 internal Barracuda's RAID capabilities, prior to</p> <p>4 purchasing --</p> <p>5 A Yes.</p> <p>6 Q Sorry -- prior to purchasing the drive?</p> <p>7 A Yes.</p> <p>8 Q Did you rely on any of those statements</p> <p>9 considering you weren't going to use the drive on a</p> <p>10 RAID configuration?</p> <p>11 A Yes.</p> <p>12 Q Why did you rely on them?</p> <p>13 A Because RAID is typically a more critical</p> <p>14 application of a computer setup where you just</p> <p>15 cannot afford to lose your data. And my assumption</p> <p>16 was that a drive suitable for RAID would be just as</p> <p>17 suitable for single-drive storage.</p> <p>18 Q Gotcha.</p> <p>19 And just kind of turning to the -- to</p> <p>20 another term that's used throughout the complaint.</p> <p>21 Have you heard of a NAS before?</p> <p>22 A Yes.</p> <p>23 Q Do you know what it?</p> <p>24 A Yes.</p> <p>25 Q Can you tell me?</p>
<p style="text-align: right;">Page 75</p> <p>1 drives failed?</p> <p>2 A I did not.</p> <p>3 Q So we talked a little bit about</p> <p>4 representations regarding AFR and what your</p> <p>5 interpretation of what AFR was. I want to do the</p> <p>6 same for RAID now.</p> <p>7 A Okay.</p> <p>8 Q So can you tell me what a RAID is?</p> <p>9 A It's a redundant array. It's multiple</p> <p>10 disks run together so that if one fails you don't</p> <p>11 lose your data; you just replace one disk that has</p> <p>12 failed.</p> <p>13 Q And given your hobbies with videography</p> <p>14 and things of that nature, do you use RAID, a RAID</p> <p>15 configuration, for things like faster speeds?</p> <p>16 A I have, but -- I have, but at this time</p> <p>17 I'm not.</p> <p>18 Q So it's mostly for data redundancy that</p> <p>19 you're using your RAID?</p> <p>20 A Correct.</p> <p>21 Q So I know that you mentioned that you</p> <p>22 have a RAID at home now, but you didn't purchase any</p> <p>23 three-terabyte Barracuda drives for use in a RAID;</p> <p>24 is that correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 77</p> <p>1 A It's network-attached storage.</p> <p>2 Q And what -- what does a NAS -- or, what</p> <p>3 purpose does a NAS serve?</p> <p>4 A It's served typically as backup for your</p> <p>5 network data, and can be, you know, one drive;</p> <p>6 although, I don't know who would use that.</p> <p>7 Typically, it's multiple drives in a RAID</p> <p>8 configuration setup, to back up your network.</p> <p>9 Q And do you have a NAS that uses a</p> <p>10 three-terabyte hard drive in Seagate?</p> <p>11 A I do not.</p> <p>12 Q And did you read any statements by</p> <p>13 Seagate about the use of the three-terabyte</p> <p>14 Barracuda hard drive in a NAS before purchasing the</p> <p>15 drive?</p> <p>16 A Yes.</p> <p>17 Q And did you rely on Seagate statements</p> <p>18 about use in a NAS configuration?</p> <p>19 A Yes, ma'am.</p> <p>20 Q Why would you -- why did you rely on</p> <p>21 those statements?</p> <p>22 A It just goes back to the reliability and</p> <p>23 the importance of network-attached storage to</p> <p>24 businesses, or even individuals.</p> <p>25 Q What type of computer did you use your</p>

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<p style="text-align: right;">Page 94</p> <p>1 I, the undersigned, a Certified Shorthand  2 Reporter of the State of California, do hereby  3 certify:  4 That the foregoing proceedings were taken  5 before me at the time and place herein set forth;  6 that any witnesses in the foregoing proceedings,  7 prior to testifying, were duly sworn; that a record  8 of the proceedings was made by me using machine  9 shorthand, which was thereafter transcribed under my  10 direction; further, that the foregoing is a true  11 record of the testimony given.  12 I further certify I am neither financially  13 interested in the action nor a relative or employee  14 of any attorney or party to this action.  15 IN WITNESS WHEREOF, I have this date  16 subscribed my name.  17  18 Dated: _____  19  20  21   22 ASHLEY SOEVYN  23 CSR No. 12019  24  25</p>	